

REMARKS/ARGUMENTS

Claim 1 has been amended to include the limitations of original claims 10 and 15. No new matter has been added by way of this amendment. Claims 23-27, directed to a pharmaceutical or cosmetic composition, have been canceled. Applicant reserves the right to file a divisional application with regard to the canceled matter.

The Examiner has rejected claims 1, 3-4, 10-12, and 15-22 under 35 U.S.C. § 103(a) as unpatentable over WO 97/33556 ("*Midha*"). Specifically, the Examiner alleges that *Midha* teaches a graft copolymer having a composition similar to that of the claimed invention. The Examiner thus contends that "any polymer that is substantially the same as [the] claimed invention will have the ability to form particles." *Official Action*, page 5. Applicant respectfully traverses this rejection because this contention is incorrect. In addition, the claimed invention achieves an unexpected result.

First, *Midha* does not disclose dispersions of a graft copolymer in a non-aqueous non-silicone media as in the claimed invention. Rather, *Midha* consistently refers to the compositions as solutions of graft copolymers. pg.8, ll.25-26 and pg.16, 30-31. *Midha* discloses hair care compositions comprising a copolymer having a polymeric backbone and hydrophobic polymeric side chains grafted thereto. *Midha* discloses that these graft copolymers are "soluble in hydrophobic, volatile solvent[s]." Pg.16, ll.30-31. *Midha* defines "soluble" as "the maximum concentration of monomer or polymer that can dissolve in water or other solvent to form a solution that is substantially clear to the naked eye, as is well understood to those skilled in the art." Pg.6, ll.4-7, emphasis added. Plainly, the polymer solutions of *Midha* are not dispersions of polymer particles as in the claimed invention. Nor is there any disclosure in *Midha* that the polymers can be

present in a form other than dissolved in solution.

Midha also discloses that the graft copolymers "as a whole [are] soluble in hydrophobic, volatile solvent[s]." pg.8, 11.25-26, emphasis added. This is in contrast to the claimed invention which recites that the polymer skeleton is insoluble in the medium while the side chain grafts are soluble. Clearly, the claimed polymers are not wholly soluble.

Second, *Midha* broadly discloses a copolymer where the amount of side-chain grafts ranges "from about 5% to about 70%, more preferably from about 15% to about 65%, and most preferably from about 20% to about 50% by weight of the [graft] copolymer." pg.11, 11.16-19. Moreover, each example in *Midha* provides for 20% or more of side chains grafts. See *Midha*, examples 1-4. Thus, while *Midha* discloses a broad range for an amount of side-chain grafts attached to the polymer backbone, it does not disclose the instantly recited range or, for that matter, the importance of any range. Certainly *Midha* does not disclose the criticality of having between 0.05% and 20% side chain grafts as in the claimed invention.

Applicant has found that limiting the amount of side-chain grafts to between 0.05% and 20% by weight of the copolymer results in a polymer dispersion, as opposed to a solution, that has unexpected properties. Evidence to this effect is set forth in the accompanying Declaration of the named inventor, Bertrand Lion. As explained in the Declaration, she found that a film resulting from the polymer dispersion of the claimed invention was less tacky than films derived from comparative polymer solutions in which the amount of side chain grafts was greater than 20% by weight of the copolymer. Polymer films that are less tacky have a reduced tendency to be altered by oil or sebum in/or on the skin. In the opinion of the Declarant, this result would not have been expected. Applicant submits that the claimed invention would not have been obvious over *Midha*.

Accordingly, favorable reconsideration and withdrawal of the obviousness rejection is respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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